

IV. FAPE/IEP/LRE

1. FREE APPROPRIATE PUBLIC EDUCATION

It is the policy of the State of Missouri that all children with disabilities between the ages of three (3) and twenty-one (21) years, inclusive, as prescribed by Missouri statutes and residing in the state, have a right to a free appropriate public education (FAPE), including children with disabilities who have been suspended or expelled from school.

The term "students with disabilities" as used in this document includes all students defined as "handicapped" and "severely handicapped" in accordance with 162.675(2)(3) RSMo and the Individuals with Disabilities Education Act (IDEA). Definitions of each disabling condition are found in Regulation III. of this document.

A free appropriate public education (FAPE) is defined to include regular and special education and related services which:

- A. are provided at public expense, under public supervision and direction, and without charge to the parent;
- B. meet the educational standards of the State Education Agency pertaining to the education of students with disabilities;
- C. includes preschool, elementary school, and secondary school education; and,
- D. are provided in conformity with the individualized education program (IEP).

FAPE for Children Begins at Age Three (3)

The State of Missouri ensures that FAPE is available to each eligible child residing in the state no later than the child's third birthday. An IEP must be in effect by the child's third birth date. If the child's third birth date occurs during the summer, the child's IEP Team shall determine the date when the services under the IEP will begin. Regulation IV. of this State Plan outlines procedures that the Part C system must complete to assure a smooth transition for children eligible for Part B services at age three (3).

FAPE for Children Suspended or Expelled from School

A public agency is not required to provide services to a child with a disability who has been removed from his or her current placement for ten (10) school days or less in that school year if services are not provided to a child without disabilities who has been similarly removed.

In the case of a child with a disability who has been removed for more than ten (10) school days in a school year the public agency, for the remainder of the removals must:

- A. provide services to the extent necessary to enable the child to **continue to progress appropriately progress** in the general curriculum, **although in another setting**, and **appropriately advance to progress** toward achieving the goals in the child's IEP if the removal is:
- 1) under the school personnel's authority to remove for not more than ten (10) consecutive school days as long as that removal does not constitute a change of placement, or
 - 2) for behavior that is not a manifestation of the child's disability and results in a disciplinary change of placement.
- B. provide services consistent with 34CFR 300.522 (see page 59) regarding determination of an appropriate Interim Alternative Educational Setting to enable the child to continue to progress in the general curriculum if the removal is:
- 1) for drugs, weapons offenses, or behavior resulting in serious bodily injury, or
 - 2) based on a hearing officer's determination that maintaining the current placement of the child is substantially likely to result in injury to the child or to others if he or she remains in the current placement.

School personnel, in consultation with the child's special education teacher, determine the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed under the authority of school personnel to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement.

The child's IEP Team determines the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward meeting the goals in the child's IEP if the child is removed because of behavior that has been determined not to be a manifestation of the child's disability and results in a long-term suspension/disciplinary change of placement.

Children Advancing from Grade to Grade

The State of Missouri ensures that FAPE is available to any individual child with a disability who needs special education and related services, even though the child has not failed or been retained in a course or grade, and is advancing from grade to grade. The determination that such a child is eligible for services must be made on an individual basis by the group of individuals within the child's local education agency that is responsible for making those determinations.

Exceptions to FAPE

Public agencies in Missouri are not required to provide FAPE to the following children and youth:

- A. youth with disabilities who reach the age of twenty-one (21).
- B. students who have graduated from high school with a regular high school diploma. However, students who have graduated, but have not been awarded a regular diploma continue to be eligible in Missouri to receive FAPE if they are under twenty-one (21) years of age. Students who have obtained a General Education Diploma (GED), but not a regular high school diploma, continue to be eligible. Graduation from high school with a regular diploma constitutes a change in placement, requiring written prior notice in accordance with 34 CFR 300.503. The term, regular high school diploma does not include an alternative degree that is not fully aligned with the State's academic standards, such as a certificate or a general educational development credential (GED).
- C. children whose parent has refused to consent to the receipt of special education and related services or has failed to respond to a request to provide such consent.
- D. parentally placed private school children with disabilities. **when a board of education has specified a standard less than FAPE.**
- E. children with disabilities who receive early intervention services under Part C of the Act.

Agency Responsible for FAPE

The local school district or special school district in which a child with a disability resides is responsible for implementation of FAPE. Students with disabilities or severe disabilities who are admitted to programs and facilities of the Department of Mental Health or whose domicile is in one district, but actually reside in another district as a result of a placement arranged by or approved by the Department of Mental Health, the Department of Social Services, or a court of competent jurisdiction shall be provided special education and related services in the district where the student actually resides.

The Department of Mental Health, the Department of Social Services, or a court of competent jurisdiction may provide or procure special education and related services for such students.

The Department of Mental Health shall provide special education and related services for students with disabilities, ages three (3) through twenty (20), whose domicile is in one school district, but actually reside in another school district if said student has been determined by the Department of Mental Health to be dangerous to himself/herself or others or is determined to be medically fragile.

The Department of Corrections shall provide special education and related services to those youth who are determined eligible for special education services at the time of their admittance to the correctional system.

The following requirements do not apply to those students with disabilities who are convicted as adults under State law and incarcerated in adult prisons:

- A. the requirement to participate in State and district assessments, and
- B. the requirement relating to transition planning and transition services if their eligibility for Part B services will end because of their age before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

The IEP Team of a student with a disability, who is convicted as an adult under State law and incarcerated in an adult prison, may modify the student's IEP or placement if the Department of Corrections has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. The requirements relating to LRE do not apply.

The Department of Social Services, Division of Youth Services (DYS), shall provide special education and related services or arrange for such services with other agencies and schools where DYS releases such students, for students and youth with disabilities who have been assigned to programs by a court and meet eligibility.

LISTED BELOW ARE THE STATUTES OF THE STATE OF MISSOURI WHICH PROVIDE A LEGAL BASIS AND SOURCE FOR MISSOURI'S POLICY RELATING TO FAPE:

<i>(Section 162.670, RSMo)</i>	<i>(Section 162.675(3), RSMo)</i>
<i>(Section 162.680(1)(2), RSMo)</i>	<i>(Section 217.355(4), RSMo)</i>
<i>(Section 162.700(1), RSMo)</i>	<i>(Section 219.021, RSMo)</i>
<i>(Section 162.725(1), RSMo)</i>	<i>(Article IV, Section 37(a), Missouri Constitution)</i>
<i>(Section 162.675(2), RSMo)</i>	

2. INDIVIDUALIZED EDUCATION PROGRAM

Responsibility of SEA and Other Public Agencies for IEPs (34 CFR 300.341.

The Missouri Department of Elementary and Secondary Education (DESE) ensures that each public agency develops and implements an Individualized Education Program (IEP) for each child with a disability served by that agency with the exception of private school children as outlined in Regulation VIII., of this State Plan, and develops and implements an IEP for each eligible child who is placed in or referred to a private school or facility by a public agency.

Definition Content of IEP (34 CFR 300.320347)

The term Individualized Education Program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting and must include:

- A. a statement of the child's present levels of academic achievement and functional performance, including how the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children), or for preschool children, as appropriate, how the disability affects the child's participation in appropriate activities, and for children with disabilities who take alternative assessments aligned to alternative achievement standards, a description of benchmarks or short-term objectives;
- B. a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and **make** progress in the general education curriculum (i.e., the same curriculum as for nondisabled children), or for preschool children, as appropriate, to participate in appropriate activities, and meeting each of the child's other educational needs that result from the child's disability. **For children with disabilities who take alternative assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;**
- C. a statement of the special education and related services and supplementary aids and services, based on peer reviewed research to the extent practicable to be provided to the child or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided **to enable for** the child:
 - 1) to advance appropriately toward attaining the annual goals;
 - 2) to be involved in and make progress in the general education curriculum;
 - 3) to participate in extracurricular and other nonacademic activities; and,
 - 4) to be educated and participate with other children with disabilities and nondisabled children in the activities described in this paragraph.

This statement must specify whether the student needs transportation as a related service. If the IEP Team determines transportation is not necessary as a related service, the IEP document must reflect this.

- D. a statement of the child's participation in physical education;
- E. an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in letter C above;
- F. a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state and district-wide assessments. If the IEP Team determines that the child shall take an alternative assessment on a particular State or district-wide assessment of student achievement, a statement of why the child cannot participate in the regular assessment, and **why how** the particular alternate assessment is appropriate for the child;
- G. the projected date for the beginning of the services and modifications described in letter C above, and the anticipated frequency, location, and duration of those services and modifications;

- H. a **description statement** of how the child's progress toward the annual goals described in letter B above will be measured, and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;
- I. a listing of the individuals who attended the IEP meeting and their role (indicates attendance only not necessarily agreement with the IEP);
- J. a statement indicating the child's eligibility or ineligibility for extended school year services; and,
- K. a statement of the placement considerations and decision.

As appropriate, the IEP must also include:

Transition Services

- A. beginning not later than the first IEP to be in effect when the child is sixteen (16), and updated annually thereafter appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; the transition services (including courses of study) needed to assist the child in reaching those goals, and
- B. beginning not later than one year before the student reaches age eighteen (18), a statement that the child has been informed of his or her rights under Part B of IDEA and that those rights will transfer to the student upon reaching the age of majority.

Special Considerations

- A. **a statement regarding a particular device or service (including an intervention, accommodation or other program modification in order for a child to receive FAPE as determined by the IEP Team when considering the special factors identified in 34 CFR 300.346.**
- A. for children who are blind or visually impaired:
 - 1) the specific goals and objectives which specify the competencies in reading and writing Braille to be taught during the school year;
 - 2) means by which Braille will be implemented through integration with normal classroom activities;
 - 3) the date on which Braille instruction will commence;
 - 4) the level of competency in Braille reading and writing expected to be achieved by the end of the period covered in the IEP;
 - 5) the duration of each session;
 - 6) if the IEP Team determines that Braille instruction is not appropriate for a child with blindness or visual impairments, the basis for that determination shall be documented on the IEP; and,
 - 7) that a referral to Rehabilitation Services for the Blind has been discussed and the decision of the parent regarding the referral.

- B. in the case of a child whose behavior impedes his or her learning or that of others, consider **if appropriate, strategies, including the use of** positive behavioral interventions and supports **and other strategies** to address that behavior (for children for whom a Behavior Intervention Plan is developed, the Plan must be included in the IEP;
- C. in the case of a child with limited English proficiency, consider the language needs of the child as those needs relate to the child's IEP;
- D. consider the communication needs of the child and, in the case of a child who is deaf or hard of hearing, consider the child's language and communication needs, opportunities for direct communications with peers and professional personnel in the child's language and communication mode, academic level, and full range of needs, including opportunities for direct instruction in the child's language and communication mode; and,
- E. consider whether the child requires assistive technology devices and services; and,
- F. for children who use hearing aids or cochlear implants, a statement that the aids or external components of surgically implanted medical devices will be:
 - 1) monitored for proper working order on a daily basis and during evaluation procedures, and
 - 2) evaluated for proper functioning on an annual basis.

Nothing in this section shall be construed to require that additional information be included in a child's IEP beyond what is explicitly required in this section, and the IEP Team to include information under one component of a child's IEP that is already contained under another component of such IEP.

IEP Team (34 CFR 300.321344)

Public agencies shall ensure that the IEP Team for each child with a disability includes:

- A. the parents of the child;
- B. **at least not less than** one regular education teacher **of the child who is or may be responsible for implementing a portion of the IEP of the child** (if the child is or may be participating in the regular education environment);
- C. **at least not less than** one special education teacher of the child, or, **if where** appropriate, **at least not less than** one special education provider of the child;
- D. a representative of the public agency who is qualified to provide or supervise the provisions of specially designed instruction to meet the unique needs of children with disabilities, is knowledgeable about the general **education** curriculum, and is knowledgeable about the availability of resources of the public agency and able to commit the resources of the agency;
- E. an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in B through D of this paragraph;

- F. at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and,
- G. whenever appropriate, the child with a disability.

Transition Services Participants

The public agency shall invite a student with a disability of any age to attend his or her IEP meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the student's transition services needs under 34 CFR 300.347(b)(1), the needed transition services needed to assist the child in reaching those goals. for the student under 34 CFR 300.347(b)(2), or both. If the student does not attend the IEP meeting, the public agency shall take other steps to ensure that the student's preferences and interests are considered.

To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing transition services, the public agency also shall invite a representative of any participating other agency that is likely to be responsible for providing or paying for transition services. If an agency invited to send a representative to a meeting does not do so, the public agency shall take other steps to obtain participation of the other agency in the planning of any transition services.

Determination of Knowledge and Expertise

The determination of the knowledge or special expertise of any individual shall be made by the party (parents or public agency) who invited the individual to be a member of the IEP Team.

Designating a Public Agency Representative

A public agency may designate another public agency member of the IEP Team to also serve as the agency representative (IEP Team participant D above) if they satisfy the criteria specified for that role.

IEP Team Attendance

A member of the IEP Team shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree, in writing, that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.

A member of the IEP Team may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent, in writing, and the local educational agency consent to the excusal, and the member submits, in writing to the

parent and the IEP Team, input into the development of the IEP prior to the meeting.
A parent's agreement and consent shall be in writing.

Initial IEP Team Meeting for a Child Under Part C

In the case of a child who was previously served under Part C (First Steps), an invitation to the initial IEP Team meeting must, at the request of the parent, be sent to the Part C service coordinator or other representative of the Part C system to assist with the smooth transition of services.

Parent Participation (34 CFR 300. ~~322~~345)

Each public agency shall take steps to ensure that one or both of the parents of a child with a disability are present at each IEP meeting or are afforded the opportunity to participate, including notifying the parents of the meeting early enough to ensure they will have an opportunity to attend and scheduling the meeting at a mutually agreed on time and place.

Information Provided to Parents

The notice to parents must indicate the purpose, time, and location of the meeting; who will be in attendance; and inform the parent that the parent and the district can invite individuals to the meeting that they believe have knowledge or special expertise regarding their child. The determination as to whether an individual has knowledge or special expertise is made by the parent or public agency who invited the individual to be a member of the IEP Team. **In the case of an initial IEP Team meeting for a child who has participated in Part C (First Steps), the notice must inform the parent, that at their request, an invitation to the initial IEP meeting shall be sent to the Part C service coordinator or other representatives of the Part C system.**

For a student with a disability beginning not later than the first IEP to be in effect when the child is sixteen (16) **or younger, if determined appropriate by the IEP Team,** and annually thereafter, the notice must indicate:

- A. that a purpose of the meeting is the consideration of **needed** the **postsecondary goals and** transition services for the student;
- B. that the agency will invite the student; and,
- C. identify any other agency that will be invited to send a representative.

Other Measures to Ensure Parent Participation

If neither parent can attend, the public agency shall use other methods to ensure parent participation, including individual or conference telephone calls, **consistent with 34 CFR 300.328.**

Conducting an IEP Meeting Without a Parent in Attendance

A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must have a record of at least two (2) attempts to arrange a mutually agreed on time and place, such as:

- A. detailed records of telephone calls made or attempted and the results of those calls;
- B. copies of correspondence sent to the parents and any responses received; or,
- C. detailed records of visits made to the parent's home or place of employment and the results of those visits.

Use of Interpreters or Other Action

The public agency shall take whatever action is necessary to ensure that the parent understands the proceedings of the IEP meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

Parent Copy of the IEP

The public agency shall provide the parent a copy of the child's IEP at no cost to the parent.

When IEPs Must be in Effect (34 CFR 300.323342)

At the beginning of the school year, each public agency shall have an IEP in effect for each child with a disability within its jurisdiction who has been determined eligible to receive services under IDEA, Part B.

Each public agency shall ensure that a meeting to develop an IEP is conducted within thirty (30) days of a determination that the child needs special education and related services and IEP is in effect before special education and related services are provided to an eligible child. and that the special education and related services are made available to the child in accordance with the IEP is implemented as soon as possible following the IEP meeting.

Each public agency must ensure that:

- A. the child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation;
- B. each teacher and provider are informed of his or her specific responsibilities related to implementing the child's IEP; and,
- C. the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

In-state Transfers

In the case of a child with a disability who transfers school districts within the same school academic year, who enrolls in a new school, and who had an IEP that was in effect in Missouri the same State, the local educational agency shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the local educational agency adopts the previously held IEP or develops, adopts, and implements a new IEP.

Students with Known Disabilities

Students with disabilities who enroll and have a copy of a current evaluation and IEP shall be placed, without delay, in the appropriate special education placement if the receiving public agency agrees with the current evaluation and determines that the current IEP is appropriate and can be implemented as written.

If the public agency does not agree with the current evaluation report, it must initiate a reevaluation as described in Regulation III. of this State Plan. During the time that the reevaluation is being conducted, the agency shall implement the IEP, as written, from the sending agency or develop an interim IEP until the reevaluation is complete.

Students with Suspected Disabilities

When a student enrolls as a special education student suspected of having a disability enrolls in a public agency but does not have copies of the evaluation report and/or IEP, the public agency shall seek information to confirm special education eligibility. determine the need for special education. Without delay, agency officials shall conduct interviews with officials of the public agency in which the student was enrolled, the student's parent/legal guardian, and, when appropriate, the student.

If such interviews fail to produce sufficient information to justify the placement of the student in special education, the public agency shall place the student in regular education, monitor the student's progress, and refer the student for comprehensive evaluation if the student's performance indicates the need for comprehensive evaluation.

If the results of the interviews produce sufficient information to confirm special education eligibility, reasonably suspect that the student requires special education services the public agency shall develop an interim IEP that provides comparable services to those reportedly provided under the missing IEP using and offer an appropriate special education placement according to the following procedures:

- A. the IEP Team shall review all available assessment data pertaining to the student obtained from interviews with the previous agency officials, parent/legal guardian, and student;
- B. the IEP Team shall develop an interim IEP based upon the assessment data and consistent with the requirements of Regulation IV.;

- C. the IEP Team shall offer **an interim** placement; and,
- D. review and, if appropriate, revise the **interim** IEP upon receipt of the evaluation report from the former public agency; or
- E. initiate a reevaluation as outlined in Regulation III. of this State Plan if an evaluation report is not received from the former agency within thirty (30) days of the student's enrollment in the public agency or if the evaluation report is received but not accepted.

Out of State Transfers

For children who transfer from another state, and had an IEP that was in effect in that state, to a Missouri public agency and enroll in a new school within the same school year, the Missouri public agency, in consultation with the parents, must provide the child with FAPE (including services comparable to those described in the child's IEP from the previous public agency) until the new public agency:

- A. conducts an evaluation, if determined necessary by the new public agency, and
- B. develops, adopts, and implements a new IEP (if appropriate).

When a child's records are not available to the new public agency, the new public agency shall follow procedures for "Students with Suspected Disabilities" as outlined above.

In the case of a child with a disability who transfers school districts within the same academic year, who enrolls in a new school, and who had an IEP that was in effect in another State, the new school shall provide such child with a free appropriate public education, including services comparable to those described in the previously held IEP, in consultation with the parents until such time as the new school conducts an evaluation, if determined to be necessary by the school, and develops a new IEP, if appropriate.

When a student from another State enrolls in a Missouri school district with a copy of a current evaluation report and/or IEP or upon receipt of such records from the out-of-state agency, the following procedures will apply:

- A. the receiving school district in Missouri shall review the information contained in the evaluation report to determine if the student meets eligibility criteria outlined in this State Plan; and,
- B. provide prior written notice to the parent(s) of the child indicating the acceptance or rejection of the evaluation report from the out-of-state agency.

If the district accepts the evaluation report from the previous state and a current IEP was received:

- A. The public agency must review and accept or reject the IEP from the previous state. In accepting the IEP, the public agency must document the parent's satisfaction with the IEP; or,

- B. If the public agency rejects the IEP, an IEP meeting must be held as soon as possible, but not more than thirty (30) calendar days after the Notice to accept the evaluation report was provided.

If the public agency accepts the evaluation report from the previous state but the agency did not receive a copy of the current IEP:

- A. the agency must conduct a meeting to develop an IEP as soon as possible, but not more than thirty (30) calendar days after the Notice to accept the evaluation report was provided.

If the agency rejects the evaluation report from the previous state, the agency must:

- A. Conduct an evaluation of the child with the intent to determine if the child meets Missouri eligibility criteria and if the child continues to need special education and related services.
- B. During the evaluation period, if an IEP was received from the previous state and the parents indicate their agreement, the district must:
 - 1) implement the IEP from the previous state, as written; or,
 - 2) develop an interim IEP for the period of the evaluation.
- C. If an IEP is not received from the previous state, or if agreement with the parents cannot be reached for an interim IEP and placement, the child will be placed in regular education for the period of the evaluation.
- D. Based on the results of the evaluation and eligibility determination, hold a meeting to develop/review/revise the IEP within thirty (30) calendar days of the eligibility staffing date or provide Notice to the parent of the child's ineligibility and lack of need for special education and related services.

Transmittal of Records

To facilitate the transition for a child entering a school from another school district in Missouri or from an out-of-state school, the new school in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous school in which the child was enrolled and the previous school in which the child was enrolled shall take reasonable steps to promptly respond to such request from the new school.

Development, Review, and Revision of IEP and Special Considerations (34 CFR 300.324~~346~~)

In developing each child's IEP, the IEP Team shall consider the strengths of the child and the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the child, and the academic, developmental,

and functional needs of the child. as appropriate, the results of the child's performance on any general State or district-wide assessment programs.

In conducting a meeting to review and, if appropriate, revise a child's IEP, the IEP Team shall consider special factors and document those appropriate in the IEP as described under Definition of IEP. described below.

Requirement for Regular Education Teacher

The regular education teacher of a child with a disability, as a member of the IEP Team, must, to the extent appropriate, participate in the development, review, and revision of the child's IEP, including assisting in the determination of appropriate positive behavioral interventions and supports, and other strategies for the child and supplementary aids and services, program modifications, or supports for school personnel that will be provided for the child, consistent with content of the IEP. (34 CFR 300.347) letter C.

Amending or Modifying an IEP without a Meeting

In making changes to a child's IEP after the annual IEP Team meeting for a school year, the parent of a child with a disability and the public local educational agency may agree not to convene an IEP Team meeting for the purposes of making such changes, and instead may develop a written document to amend or modify the child's current IEP. If changes are made to the child's IEP, the public agency must ensure that the child's IEP Team is informed of those changes.

IEP Meetings (34 CFR 300.343)

Each public agency is responsible for initiating and conducting meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability.

Consolidation of IEP Team Meetings

To the extent possible, the public local educational agency shall encourage the consolidation of reevaluation meetings for the child and other IEP Team meetings for the child.

Amendments

Changes to the IEP may be made either by the entire IEP Team at an IEP meeting or by mutual agreement of the parent and public agency (as described above) by amending the IEP rather than by redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with the amendments incorporated.

Initial IEPs and Provision of Services

Each public agency shall ensure that within 60 days following the agency's receipt of parent consent to an initial evaluation of a child, the child is evaluated. If determined eligible, special education and related services are made available to the child in accordance with an IEP. A meeting to develop an IEP for the child must be conducted within thirty (30) days of a determination that the child is eligible for services under IDEA.

Review and Revision of IEPs

Each public agency shall ensure that the IEP Team reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved. The IEP Team must also review and, as appropriate, revise the IEP to address:

- A. any lack of expected progress toward the annual goals and in the general education curriculum, if appropriate;
- B. the results of any reevaluation;
- C. information about the child provided to or by the parents;
- D. the child's anticipated needs; or,
- E. other matters.

Agency Responsibilities for Transition Services (34 CFR 300.348)

Failure to Meet Transition Objectives (34 CFR 300.324)

If a participating agency, other than the public agency, fails to provide the transition services described in the IEP, the public agency shall reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the student set out in the IEP.

Nothing relieves any participating agency, including a State vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

Private School Placements by Public Agencies (34 CFR 300.349)

Before a public agency places a child with a disability in or refers a child to a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child. The agency shall ensure that a representative of the private school or facility attends the meeting. If the representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

After a child with a disability enters a private school or facility, any meetings to review and revise the child's IEP may be initiated and conducted by the private school or facility at the discretion of the public agency. If the private school or facility initiates and conducts these meetings, the public agency shall ensure that the parents and an

agency representative are involved in any decision about the child's IEP and agree to any proposed changes in the IEP before those changes are implemented.

Even if a private school or facility implements a child's IEP, responsibility for compliance with this part remains with the public agency and the SEA.

Alternative Means of Meeting Participation (34 CFR 300.328)

When conducting IEP Team meetings, the parent of a child with a disability and a public agency may agree to use alternative means of meeting participation such as video conferences and conference calls.

IEP Accountability (34 CFR 300.350)

Each public agency must provide special education and related services to a child with a disability in accordance with the child's IEP, and make a good faith effort to assist the child to achieve the goals and objectives or benchmarks listed in the IEP.

Part B of IDEA does not require that any agency, teacher, or other person be held accountable if a student does not achieve the growth projected in the annual goals and benchmarks or objectives. However, the Act does not prohibit a State or public agency from establishing its own accountability systems regarding teacher, school, or agency performance. Nothing in this section limits a parent's right to ask for revisions of the child's IEP or to invoke due process procedures if the parent feels that good faith efforts are not being made to assist the child to achieve the goals, benchmarks, or objectives.

3. LEAST RESTRICTIVE ENVIRONMENT (LRE)

General LRE Requirements (34 CFR 300.114550)

Each public agency shall ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who **are nondisabled do not have disabilities**, and that special classes, separate schooling, or other removal of children from the general educational environment occurs only if the nature or severity of the disability is such that education in general education classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Continuum of Alternative Placements (34 CFR 300.115551)

Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children ages five (5) to twenty-one (21) with disabilities for special education and related services. The continuum shall include instruction in the regular classes (general education environments), special classes, special schools, home instruction, and instruction in hospitals and institutions. Each public agency must make

provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with general class placement.

For children ages three (3) to five (5), the placement options include individual, early childhood settings, early childhood special education classes in settings with **nondisabled** children **who are nondisabled**, early childhood special education in settings with only **disabled** children **with disabilities**, multiple settings, and residential settings.

Placements (34 CFR 300.116552 and 300.327)

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency shall ensure that the placement decision is made by the IEP Team that is knowledgeable about the child, the meaning of the evaluation data, and the placement options, and is made in conformity with LRE provisions. The child's placement is determined at least annually, is based on the child's IEP, and is as close as possible to the child's home.

Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled. In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs. A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

Each year the public agency, through the IEP process, shall review/revise a child's IEP and subsequently make a placement decision for each student with a disability served by the public agency. The public agency must reach the placement decision from the assumption that a student with a disability should be educated with peers who do not have a disability unless the needs of the student with a disability require other arrangements. The public agency must be able to justify the placement decision in accordance with a two-part inquiry:

- A. whether education in the regular classroom, with the use of supplementary aids and services, can be achieved satisfactorily; if not, then,
- B. whether the child has been integrated to the maximum extent appropriate.

The following factors shall be considered as a part of the two-part inquiry:

- A. the curriculum and goals of the regular education class (i.e., factors which document a need for specially designed materials, supplies, or equipment or significant modifications to the regular curriculum which would have an adverse affect on the educational program for other students in the class);
- B. the sufficiency of the district's efforts to accommodate the child with a disability in the regular class (i.e., description of modifications which have been attempted/resources which have been committed and the student centered results

which were observed or a description of the modifications considered but rejected and the basis for the rejection);

- C. the degree to which the child with a disability will receive educational benefit from regular education (i.e., consideration of the potential positive effects with respect to cognitive, academic, physical, social, or other areas of development);
- D. the effect the presence of a child with a disability may have on the regular classroom environment and on the education that the other students are receiving (i.e., description of potential harmful effects for the student with a disability or disruptive effects for students without disabilities); and,
- E. The nature and severity of the child's disability (i.e., factors which support a need for alternative instruction which cannot be achieved in the regular class such as extreme distractibility, diverse learning styles, and inability to engage appropriately with other students in academic or social interactions).

Nonacademic Settings (34 CFR 300.117553)

Each public agency shall ensure that each child with a disability participates in nonacademic and extracurricular services and activities of the public agency with **nondisabled children students who do not have disabilities in the extracurricular services and activities** to the maximum extent appropriate to the needs of that child. **The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.** Such services and activities may include meals, recess periods, counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies which provide assistance to individuals with disabilities, employment of students including both employment by the public agency, and assistance in making outside employment available.

Children in Public or Private Institutions (34 CFR 300.554)

The local school district is responsible for the provision of special education and related services for a child with a disability who resides in public and private institutions or other alternative residential settings. Children with disabilities or suspected disabilities shall be referred to the public school by a representative of the facility or by the parent for evaluation, development of an IEP, and placement. The residential placement of such children will have been made by the Missouri departments of Mental Health or Social Services or by a court of competent jurisdiction. The placing agency may also provide the special education and related services required by such children with disabilities. When they do provide such services, the services will be under the general supervision of the Department of Elementary and Secondary Education. The Department of Mental Health shall provide special education and related services for any child who is placed outside of his/her official domicile and is determined to be dangerous to himself or others or is medically fragile. Special education and related services for children who reside in public and private institutions shall be provided in the least restrictive environment.

Technical Assistance and Training Activities (34 CFR 300.119555)

The Department of Elementary and Secondary Education will conduct the following activities to ensure that teachers and administrators in all public agencies are fully informed about their responsibilities for implementing the least restrictive environment policy and are provided with technical assistance and training necessary to assist them in this effort:

- A. distribution of state and federal laws and regulations pertaining to special education;
- B. monitoring of public agencies to determine compliance with the least restrictive environment provisions;
- C. training/workshops for public agency personnel provided prior to and following monitoring activities regarding least restrictive environment provisions;
- D. technical assistance as may be requested by public agencies and local school districts relative to the implementation of LRE provisions; and,
- E. collaboration with the State Parent Information and Training Center as requested.

Monitoring Activities (34 CFR 300.120556)

The Department of Elementary and Secondary Education monitors each public agency, including the requirements for the least restrictive environment through [the following procedures a comprehensive program review](#).

These procedures include:

- A. an annual review of each school district's count of children with disabilities and placement data;
- B. investigation of any child complaint filed;
- C. periodic monitoring of public agencies to determine appropriate implementation of policies and procedures; and,
- D. review, approval, and subsequent verification of any corrective actions required of a public agency with respect to violations of least restrictive environment requirements.

DESE will analyze **monitoring** data collected relative to implementation of the LRE requirement at each LEA/public agency. If there is evidence that the LEA/public agency makes placements that are inconsistent with 34 CFR 300.114550, DESE:

- A. shall review the LEA/public agency's justification for its actions, and
- B. shall assist in planning and implementing any necessary corrective action.

LISTED BELOW ARE THE STATUTES OF THE STATE OF MISSOURI WHICH PROVIDE A LEGAL BASIS AND SOURCE FOR MISSOURI'S POLICY FOR THE LEAST RESTRICTIVE ENVIRONMENT:

(Section 162.680(1)(2), RSMo)
(Section ~~167.126~~ ~~162.970~~, RSMo)

Special Education Placements

Early Childhood Placement Options

Early Childhood Setting

Children with disabilities who receive all of their special education and related services in educational programs designed primarily for children without disabilities. No education or related services are provided in separate special education settings.

Early Childhood Special Education Setting

Children with disabilities who receive all of their special education and related services in educational programs designed primarily for children with disabilities housed in regular school buildings or other community-based settings. No education or related services as designated by an IEP are provided in early childhood settings.

Home

Children with disabilities who receive all of their special education and related services in the principal residence of the child's family or caregivers.

Part Time EC/Part time ECSE Setting

Children with disabilities who receive all of their special education and related services in multiple settings, such that: (1) general and/or special education and related services are provided at home or in educational programs designed primarily for children without disabilities, AND (2) special education and related services are provided in programs designed primarily for children with disabilities.

Residential Facility

Children with disabilities who receive all of their special education and related services in publicly or privately operated residential schools or residential medical facilities on an inpatient basis.

Separate School

Children with disabilities who receive all of their special education and related services in educational programs in public or private day schools specifically for children with disabilities.

Itinerant Service Outside the Home

Children with disabilities who receive all of their special education and related services at a school, hospital facility on an outpatient basis, or other location for a short period of time (i.e., no more than 3 hours per week). (This does not include children receiving services at home.) These services may be provided individually or to a small group of children.

Kindergarten - Grade 12 Placement

Outside Regular Class Less Than 21 percent of day

Children with disabilities who receive special education and related services outside the regular classroom for less than 21 percent of the school day.

Outside Regular Class At least 21 percent/No more than 60 percent
Children with disabilities who receive all of their special education and related services outside the regular classroom for at least 21 percent but no more than 60 percent of the school day.

Outside Regular Class More than 60 percent of day

Children with disabilities who receive all of their special education and related services outside the regular classroom for more than 60 percent of the school day. This category does not include children who received education programs in public or private separate day or residential facilities.

Inside the Regular Class 80 percent or more of the day

Students with disabilities who are inside the regular classroom for 80 percent or more of the school day. (These are children who receive special education and related services outside the regular classroom for less than 21 percent of the school day.) This may apply to children with disabilities placed in:

- regular class with special education/related services provided within regular classes;
- regular class with special education/related services provided outside regular classes; or
- regular class with special education services provided in resource rooms.

Inside regular class no more than 79% of day and no less than 40% percent of the day

Students with disabilities who are inside the regular classroom between 40 and 79% of the day. (These are children who received special education and related services outside the regular classroom for at least 21 percent but no more than 60 percent of the school day.) This does not apply to children who are receiving education programs in public or private separate school or residential facilities. This may apply to children placed in:

- resource rooms with special education/related services provided within the resource room; or
- resource rooms with part-time instruction in a regular class.

Inside regular class less than 40 percent of the day

Students with disabilities who are inside the regular classroom less than 40 percent of the day. (These are children who received special education and related services outside the regular classroom for more than 60 percent of the school day.) This does not apply to children who are receiving education programs in public or private separate school or residential facilities. This category may apply to children placed in:

- self-contained special classrooms with part-time instruction in a regular class; or
- self-contained special classrooms with full-time special education instruction on a regular school campus.

Public Separate (Day) Facility

Children with disabilities who receive all of their special education and related services for greater than 50 percent of the school day in public separate facilities for children with disabilities.

Private Separate (Day) Facility

Children with disabilities who receive all of their special education and related services, at public expense, for greater than 50 percent of the school day in private separate facilities for children with disabilities.

Public Residential Facility

Children with disabilities who receive all of their special education and related services for greater than 50 percent of the school day in public residential facilities.

Private Residential Facility

Children with disabilities who receive all of their special education and related services, at public expense, for greater than 50 percent of the school day in private residential facilities.

Homebound/Hospital

Children with disabilities who receive all of their special education and related services in hospital programs or homebound programs.

4. TRANSITION OF CHILDREN FROM PART C SERVICES TO PART B SERVICES 34 CFR 300.124

The State of Missouri has developed **the following** policies and procedures to ensure a smooth and effective transition from Part C (First Steps) services to Part B (local school district) services for children with disabilities at age three **or to other appropriate services.**

Six months prior to the child's third birth date, the Part C service coordinator will convene an IFSP meeting to discuss the transition process with the parents and other team members in order to develop a transition plan. At this time, the team documents the steps to be taken to provide the child with a smooth and effective transition to the public school and/or other services as appropriate. If the parent agrees, local education agency (LEA) personnel must be invited and attend this IFSP meeting. If a member of the LEA staff was invited, but did not attend the transition meeting, the LEA must contact the parent at least 120 days prior to the child's third birth date. The purpose of the contact is to explain the process the district will complete to determine the child's eligibility for services under Part B of the IDEA and, if eligible, the steps that will be necessary to assure the provision of services on the child's third birth date unless the birth date occurs during a routine school break.

If the parent wants an eligibility determination for special education and related services under Part B of IDEA, the Part C service coordinator shall release information to the LEA. Any information that will assist the LEA in determining the child's eligibility and special education and related service needs must be released and must be done in such a manner so as to ensure a timely receipt by the LEA. Information provided must include, at a minimum, the following:

- A. child and parent name, address, and phone number, and the child's birth date;
- B. current copy of the entire IFSP which includes present levels of functioning, early intervention services, and transition plan;
- C. all evaluations that have occurred in the previous year, and if not contained in the child's record, where the information can be obtained; and,
- D. any written reports from service providers within the last year.

Upon receipt of the information, the LEA must follow initial evaluation procedures as outlined in the Part B State Plan. LEAs are required to provide special education and related services to eligible children as identified in the IEP as of the child's third birth date unless the birth date occurs during a normal vacation period for the public school. The LEA can document that it has made a diligent effort to complete the evaluation and IEP process, but despite that effort, was unable to do so within time lines. IEPs developed in the spring or summer may identify the implementation date as the first day of school in the fall.

Part B eligible children whose third birth dates are May through August may continue in the First Steps program until the initiation of their local district's school year in the fall.

Eligible children whose third birth dates are April 1 through May 1 may either transition to Part B services before the end of the current school year or continue services in First Steps until the initiation of their local district's school year in August/September. This discussion is part of the transition conference. Children who enroll in the local school district for the remainder of the school year must be considered for Extended School Year as required by Part B of the Individuals with Disabilities Education Act.

Financial support for early intervention services that are provided after the child's summer third birth date are as follows:

Early intervention services that were financially supported prior to the child's third birth date by Part C funds will be paid by the Department of Elementary and Secondary Education (DESE) after the child's third birth date.

If LEA policy allows, eligible children whose third birth dates occur during September may receive services under Part B at the beginning of the district's school year.